

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-0133-C - ORDER NO. 2000-0513

JUNE 20, 2000

IN RE: Application of DIECA Communications, Inc.)	ORDER
DBA Covad Communications Company for a)	GRANTING
Certificate of Public Convenience and)	CERTIFICATE
Necessity to Provide Resold Switched and)	
Dedicated, Resold and Facilities-Based Local)	
Exchange and Facilities-Based Interexchange)	
Services within the State of South Carolina.)	
)	
)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad" or the "Company") for authority to provide local exchange and intrastate interexchange telecommunications services within the State of South Carolina. The Application was filed pursuant to Chapter 9 of Title 58 of the South Carolina Code Annotated, and the Rules and Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

Counsel for SCTC filed with the Commission a Stipulation in which the Company stipulated that it would seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Covad provided written notice of its intent prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Covad agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on June 8, 2000, at 3:30 p.m. in the Commission's Hearing Room. The Honorable William Saunders, Vice-Chairman, presided. Covad was represented by Faye A. Flowers, Esquire. F. David Butler, General Counsel, represented the Commission Staff.

Tom Allen, Vice-President of Incumbent Local Exchange Carrier Relations and External Affairs for Covad, appeared and testified in support of the Application.

According to Mr. Allen, Covad will provide telecommunications services in South Carolina through a combination of its own facilities and unbundled network elements purchased from incumbent local exchange carriers (ILEC's). Covad is a packet-based competitive provider of high-speed data communications services using digital subscriber line (DSL) technology. Mr. Allen notes that the Company's services enhance remote access from homes to enterprise local

area networks (LANs) and enable Internet Service Providers (ISPs) to offer high-speed Internet access to their end-users. Mr. Allen further states that since the end-users of Covad's services are corporation tele-workers and customers of ISPs, Covad pursues an aggressive build out strategy in residential neighborhoods, seeking to collocate in ILEC central offices that serve them. Covad's goal is to collocate in some 2,000 central offices. Because of its target market, the Company has no plans to market directly to residential or business customers. Any marketing that would take place would be by an ISP, and Covad's name would be mentioned in connection with the ISP's name. The Company is interested in serving some 35 towns in South Carolina, including Greenville, Spartanburg, Gaffney, Irmo, Cayce, Charleston, Mount Pleasant, and other towns and cities.

In addition, Covad states that its long-term goal is to become a nationwide provider of carrier access services, basic telephone service and enhanced local services, in full competition with existing local exchange carriers. Further, Covad notes that if granted authority to provide basic local exchange, Covad will contribute to the support of lifeline and similar programs as required by the Commission, and will provide all customers with access to 911 emergency services where available.

Also, according to Allen, Covad and its affiliates have extensive and substantial managerial, technical and financial resources with respect to the provision of telecommunications services throughout the United States and, specifically, South Carolina.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Covad is organized as a corporation under the laws of the State of Virginia and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Covad is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina.

3. Covad has the managerial, technical, and financial resources to provide the services as described in its Application.

4. The Commission finds that Covad's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 1999).

5. The Commission finds that Covad will support universally available telephone service at affordable rates.

6. The Commission finds that Covad will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by Covad "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 1999).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Covad to provide competitive intrastate non-rural local exchange service in South Carolina. The terms of the Stipulation

between Covad and SCTC are approved, and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation. In addition, Covad is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. Covad shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. With regard to the interexchange service offerings of Covad, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. Covad shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Covad shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in

Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1999).

5. If it has not already done so by the date of issuance of this Order, Covad shall file its revised maximum long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. Covad is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's resale interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. Covad shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Covad changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, Covad shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been

rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

10. Covad shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is two pages indicated as Attachment A. Be advised that the Commission's annual report for telecommunications companies requires the filing of intrastate revenues and intrastate expenses.

11. In addition, Covad is required to file annual report information for competitive local exchange carriers, a four page report attached hereto as Attachment B.

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Covad shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment C shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

13. Covad shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

14. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Covad to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Covad shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

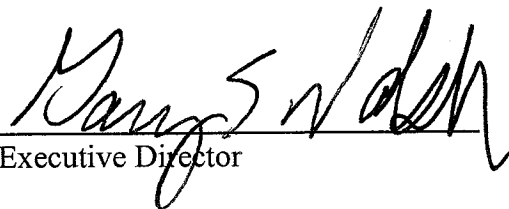
15. Covad shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Covad shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'**

COMPANY NAME	FEIN
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ADDRESS	PHONE NUMBER
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CITY, STATE, ZIP CODE	FAX NUMBER
------------------------------	-------------------

1. SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31, 2000 OR FISCAL YEAR. \$ _____
2. SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31, 2000 OR FISCAL YEAR. \$ _____
3. RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS FOR THE 12 MONTHS
ENDING DECEMBER 31, 2000 OR FISCAL YEAR:

Gross Plant in located or allocated to South Carolina operations \$ _____

CWIP located in or allocated to South Carolina operations \$ _____

Land located in or allocated to South Carolina operations \$ _____

Accumulated Depreciation of South Carolina Plant (\$ _____)

Net Rate Base located in or allocated to South Carolina operations \$ _____

4. PARENT'S CAPITAL STRUCTURE FOR THE 12 MONTHS ENDING
DECEMBER 31, 2000 OR FISCAL YEAR:

LONG TERM DEBT \$ _____

EQUITY \$ _____

5. PARENT'S AVERAGE RATE OF INTEREST ON LONG TERM DEBT _____ %.

6. CONTACT PERSON FOR ALL FINANCIAL INQUIRES AND REPORTING:

NAME _____

ADDRESS IF DIFFERENT FROM COMPANY _____

TELEPHONE NUMBER _____

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS

FOR INTEREXCHANGE COMPANIES AND AOS'

- 7. ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3 ABOVE)(USE BACK IF NEEDED).**

NAME OF OFFICER SIGNING FORM (PRINT OR TYPE) _____

SIGNATURE _____

TITLE _____

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ATTACHMENT B

ANNUAL REPORT FOR COMPETITIVE LOCAL EXCHANGE CARRIERS

COMPANY NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

PHONE NUMBER: _____ **FAX NUMBER:** _____

****If any of this information changes, the Commission is to be notified at once****

OFFICERS: PRESIDENT: _____

VICE PRESIDENT: _____

TREASURER: _____

CONTACT PERSON FOR FINANCIAL AND REGULATORY INFORMATION:

NAME: _____

(PLEASE PRINT OR TYPE)

CONTACT'S PHONE: _____

****If this person changes, you must notify the Commission immediately****

COMPETITIVE LOCAL EXCHANGE CARRIERS

Company Name: _____

**Income Statement
12/31/2000/or Fiscal Year**

Particulars	<u>Current Year-Total</u> Company	<u>Last Year-Total</u> Company	<u>SC Intrastate-Current</u> Year
Revenues			
Operating Revenues			
<u>Operating Expenses</u>			
Access and Billing Expenses and Expenses Related to Resale			
Other Local Interconnection Expenses			
Leases Facilities from Other Carriers			
Communications System Operations			
Sales and Marketing			
Administration and General			
Depreciation and Amortization			
Other			
Total Operating Expenses			
Net Operating Income			
<u>Other Income and Expenses</u>			
Nonoperating Income and Expenses (Net)			
Nonoperating Taxes			
Interest			
Extraordinary Items			
Total Other Income and Expenses (Net)			
Net Income			

Number of South Carolina Access Lines	
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COMPETITIVE LOCAL EXCHANGE CARRIERS

Company Name: _____

**Balance Sheet-Total Company
December 31, 2000/or Fiscal Year Ending**

Particulars	Balance at Beginning of Year	Balance at Ending of Year
<u>Current Assets</u>		
Cash and Cash Equivalents		
Accounts Receivable-Telecommunications		
Accounts Receivable-Other		
Notes Receivable		
Other Receivables		
Materials and Supplies		
Prepays		
Other Current Assets		
Total Current Assets		
<u>Noncurrent Assets</u>		
Investments		
Other Noncurrent		
Deferred Charges		
Total Noncurrent Assets		
<u>Plant Assets</u>		
Telecommunications Plant in Service		
Accumulated Depreciation		
Net Telecommunications Plant in Service		
Other Plant Assets (Net of Depreciation)		
Construction Work in Progress		
Total Plant		
Total Assets		

COMPETITIVE LOCAL EXCHANGE ANNUAL REPORT

Company Name: _____

**Balance Sheet-Total Company
December 31, 2000/or Fiscal Year Ending**

Particulars	Balance at Beginning of Year	Balance at Ending of Year
<u>Current Liabilities</u>		
Accounts Payable		
Advanced Billings and Payments		
Customer Deposits		
Long Term Debt-Current Maturities		
Accrued Liabilities		
Other Current Liabilities		
Total Current Liabilities		
<u>LongTerm Debt</u>		
Long Term Debt		
Obligations Under Capital Leases		
Advances From Affiliated Companies		
Other Long Term Debt		
Total Long Term Debt		
<u>Stockholders Equity</u>		
Capital Stock		
Additional Paid in Capital		
Retained Earnings		
Total Stockholders Equity		
Total Liabilities and Stockholders Equity		

JUNE 20, 2000

ATTACHMENT C

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 2000-0133-C

Re: Application of DIECA Communications, Inc. d/b/a)
Covad Communications Company for a Certificate)
of Public Convenience and Necessity to Provide)
Telecommunications Services Which Includes,)
Among Other Things, Dedicated Private Line)
Services and the Provision of a Full Range of Local)
and Interexchange Services in the State of South)
Carolina)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and DIECA Communications, Inc. d/b/a Covad Communications Company ("DIECA") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose DIECA's Application. SCTC and DIECA stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to DIECA, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. DIECA stipulates and agrees that any Certificate which may be granted will authorize DIECA to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. DIECA stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. DIECA stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until DIECA provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, DIECA acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. DIECA stipulates and agrees that, if DIECA gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then DIECA will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. DIECA acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and DIECA, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. DIECA agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. DIECA hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 25th day of May, 2000.

DIECA Communications, Inc. d/b/a
Covad Communications Company:

Jayne A. Glower
Atty for Applicant

South Carolina Telephone Coalition:

M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company